United Nations A/66/215

General Assembly

Distr.: General
1 August 2011

Original: English

Sixty-sixth session
Item 28 of the provisional agenda*

Advancement of women

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, in accordance with General Assembly resolution 65/187.

* A/66/150.

11-43945 (E) 170811

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Report of the Special Rapporteur on violence against women, its causes and consequences

Summary

This is the first written report submitted by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, to the General Assembly, pursuant to General Assembly resolution 65/187. The report provides an overview of the mandate's work and main findings and the challenges it continues to encounter, and presents specific recommendations to address violence against women through a holistic framework based on States' obligations to respect, protect and fulfil the human rights of women and girls.

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I. Introduction

1. This is the first written report submitted by the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, to the General Assembly, pursuant to General Assembly resolution 65/187. Section I summarizes the activities of the Special Rapporteur between October 2010 and July 2011. Section II provides an overview of the mandate's work and main findings and the challenges it continues to encounter, and presents specific recommendations to address violence against women through a holistic framework.

II. Activities

A. Country visits

2. In the period under review, the Special Rapporteur conducted official country missions to Algeria (1-10 November 2010), Zambia (6-11 December 2010), and the United States of America (24 January-7 February 2011).[1]

3. In 2011, the Special Rapporteur received positive replies to her requests to visit Italy and Jordan. She has urged those Governments that have not yet responded to do so favourably. The Special Rapporteur looks forward to receiving favourable responses from the Governments of Bangladesh, Nepal, Papua New Guinea, Solomon Islands, Somalia, Turkmenistan, Uzbekistan and Zimbabwe.

B. Thematic report

4. The Special Rapporteur's thematic report (A/HRC/17/26), submitted to the Human Rights Council in June 2011, focused on multiple and intersecting forms of discrimination and proposed a holistic approach to addressing the multiple and intersecting forms of discrimination that contribute to and exacerbate violence against women.[2] This approach is further explained in section III.D of the present report.

C. Communications and press releases

5. The communications sent to Governments concern a wide array of issues that reflect a pattern of inequality and discrimination related to violence against women, its causes and consequences.[3] These included, but were not limited to, arbitrary detention; torture and cruel, inhuman or degrading treatment or punishment; summary and extrajudicial executions; sexual violence, including rape, sexual abuse and sexual exploitation. The Special Rapporteur regrets that only 3 Governments out of the 13 concerned replied to the communications sent to them during the reporting period.[4]

6. The Special Rapporteur has also issued press statements, either individually or jointly with other mandate holders.

[1] See A/HRC/17/26/Add.3-5.
[2] A/HRC/17/26/Add.1-5.
[3] See A/HRC/14/22/Add.1, A/HRC/17/26/Add.1.
[4] See A/HRC/17/26/Add.1.

D. Commission on the Status of Women

7. In February 2011, the Special Rapporteur presented an oral report to the Commission on the Status of Women calling for a new vision of women's rights informed by the lessons learned from the 15-year review of the implementation of the Beijing Platform for Action. She also stressed the need for more effective implementation by States of the due diligence obligation in regard to violence against women.

E. Joint report on the Democratic Republic of the Congo

8. Pursuant to Human Rights Council resolutions 10/33 and 13/22, the Special Rapporteur contributed to the third joint report of seven United Nations experts on the situation in the Democratic Republic of Congo.[5] The Special Rapporteur expressed concern at the pervasive violations of the human rights of women and girls that continue to be perpetrated with impunity and joined her peers in reiterating the call on the Human Rights Council to consider the establishment of a special procedures country-specific mandate.

F. Regional consultations

9. The Special Rapporteur continued to engage actively with civil society organizations, including through participation in regional consultations. In September 2010, together with the Independent Expert in the field of cultural rights, she attended a regional consultation in Nepal, which focused on women, culture and human rights. In January 2011, she took part in the regional consultation for the Asia Pacific region, held in Malaysia, which focused on the theme of multiple forms of discrimination and was followed by a national consultation. In June 2011, the Special Rapporteur participated in consultations held in Brussels with European civil society organizations, including representatives of European observatories on violence against women.

G. Other activities

10. During the reporting period, the Special Rapporteur participated in a number of conferences, workshops and side events on several topics related to her mandate. These include participation in two conferences in Madrid on the theme of femicide; a colloquium on the applicability of international human rights treaties to the promotion and protection of the human rights of migrant domestic workers in the European Union; a seminar on traditional values and human rights and in three panel discussions on women's rights organized by the Human Rights Council. She conducted a study visit to Norway, at the invitation of the Minister of Justice, during which she met with various State and non-State actors who discussed evolving practices in the quest to eliminate violence against women. The Special Rapporteur acknowledges the value of such visits, which provide an opportunity to engage with

[5] A/HRC/16/68.

national stakeholders and learn from the country experience. She thanks the Government of Norway for having provided this opportunity.

11. The Special Rapporteur convened a side event on the subject of reparations to women victims of violence during the sixty-fifth session of the General Assembly and a side event on regional standards and violence against women during the seventeenth session of the Human Rights Council in June 2011. The objective of the latter event, which brought together representatives of regional human rights mechanisms from Africa, Asia, Europe and the Inter-American region, was to analyse the different provisions on violence against women elaborated in the regional human rights instruments and relevant jurisprudence developed by the regional mechanisms. The identification of potential areas of collaboration was also explored.

III. Continuum of violence against women from the home to the transnational sphere: the challenges of effective redress

12. Throughout the world, violence against women is pervasive, widespread and unacceptable. Rooted in multiple and intersecting forms of discrimination and inequalities, and strongly linked to the social and economic situation of women, violence against women constitutes a continuum of exploitation and abuse. Whether it occurs in times of conflict, post conflict or so called peace, the various forms and manifestations of violence against women are simultaneously causes and consequences of discrimination, inequality and oppression.

13. Taking into account the intersectionality and the continuum of violence approach that have increasingly blurred the distinction between violence perpetrated in the public and the private spheres, the mandate analyses violence against women in four main spheres: (i) in the family; (ii) in the community; (iii) violence perpetrated or condoned by the State; and (iv) in the transnational arena.[6] These broad categories are neither mutually exclusive nor ranked. If any violence that falls somewhere on this continuum is either directed at women, or experienced by a group that is overwhelmingly female, then the violence constitutes discrimination against women.[7]

14. Section A below tracks the evolution of violence against women as a human rights issue, including the appointment of a Special Rapporteur on violence against women. Section B describes the most prevalent manifestations of violence against women that the mandate has identified in the family, the community, the State and the transitional arena. Section C highlights some evolving practices, jurisprudence and challenges regarding States' compliance with their due diligence obligation to prevent, protect, investigate and punish and provide reparations to women victims of violence. Finally, section D proposes a holistic approach to addressing the multiple and intersecting forms of discrimination and violence against women.

[6] See A/HRC/11/6/Add.5 and resolution 48/104.

[7] See A/HRC/17/26, para. 64.

A. Violence against women as a human rights issue

1. Evolution of violence against women as a human rights issue

15. For more than 25 years, the global movement against violence against women has worked to "transform significantly the place of women and the status of gender based violence within the human rights discourse".[8] In 1985, the Third World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi, marked the end of the United Nations Decade for Women (1976-1985) and evaluated progress made by the international community in achieving the goals of equality, development and peace for women. The Nairobi Conference "reaffirm[ed] the international concern regarding the status of women and provide[d] a framework for renewed commitment by the international community to the advancement of women and the elimination of gender-based discrimination".[8] Violence against women was one of the concerns raised by participants at this meeting.

16. The 1993 World Conference on Human Rights adopted the Vienna Declaration and Programme of Action that recognized that "the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights".[9] The World Conference called upon the General Assembly to adopt the draft declaration on violence against women and urged States to combat violence against women in accordance with its provisions.[10] In 1993, the General Assembly adopted the Declaration on the Elimination of Violence against Women, which provides a more comprehensive framework on violence against women in terms of definition, scope, obligations of the State, and the role of the United Nations.[11] Pursuant to a decision of the Commission on Human Rights the same year in which it considered the appointment of a special rapporteur on violence against women, the mandate was established by resolution 1994/45 on the integration of the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women.

17. The twenty-third special session of the General Assembly on the five-year review of the implementation of the Beijing Declaration and Platform for Action clearly demonstrated that violence against women had become a priority issue on the agenda of many Member States. The outcome document of the session went a step further in calling on States to "treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination".[12] In 2010, at the Beijing + 15 review, Member States recognized that implementation of the Beijing Declaration and the Convention on the Elimination of All Forms of Discrimination against Women was mutually reinforcing in the quest to achieve gender equality and the empowerment of women and emphasized the interdependency between the implementation of these commitments and achieving the internationally agreed development goals.[13]

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[8] See A/HRC/17/26, para. 12.

[9] A/CONF.157/23, para. 18.

[10] Ibid., para. 38.

[11] Resolution 48/104.

[12] Resolution S-23/3 (2000).

[13] E/2010/27-E/CN.6/2010/11, annex, and resolution 65/187.

18. These developments led the General Assembly, the Human Rights Council and the Security Council to pass resolutions that focus particularly on violence against women and girls. The General Assembly and the Human Rights Council have, for example, increasingly identified inequality and discrimination, including gender-based violence, as violations of human rights of women and girls. Resolutions adopted by these organs have increasingly referred to the heightened risk of gender-based violence for women who suffer multiple forms of discrimination and have identified "power imbalances and structural inequality between men and women" as root causes of violence against women.[14] In the context of peace and security, the Security Council, through resolutions 1325 (2000) and 1820 (2008), has called for special measures to protect women and girls from gender-based violence in situations of armed conflict.

19. The prevalence of violence against women remains a global concern. For example, in the majority of the 21 countries considered by the Committee on the Elimination of Discrimination against Women in 2010, representing all regions, prevalence of violence was either high, persistent or on the increase.[15] The Committee had already explicitly linked discrimination against women and gender-based violence in its general recommendations No. 12 (1989) and No. 19 (1992). It constantly calls on States parties to include in their reports to the Committee information on violence and on measures introduced to overcome such violence.

20. Currently, the United Nations discourse regarding violence against women hinges on three principles: first, violence against women and girls is addressed as a matter of equality and non-discrimination between women and men; second, multiple and intersecting forms of discrimination are recognized as increasing the risk that some women will experience targeted, compounded or structural discrimination; and third, the interdependence of human rights is reflected in efforts such as those that seek to address the causes of violence against women related to the civil, cultural, economic, political and social spheres.[16]

2. Mandate of the Special Rapporteur on violence against women

21. Since 1994, the Special Rapporteur on violence against women has studied the forms, prevalence, causes and consequences of violence against women; analysed the legal and institutional developments in the protection of women against violence and the remaining challenges; and provided key recommendations to Governments and to the international community to overcome such challenges.

22. Through thematic reports,[17] country missions,[18] consultations, experts meetings, communications to Governments, and other mechanisms, the mandate of the Special Rapporteur has addressed violence against women in all spheres of life, specifically in the four spheres referred to above.[19]

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[14] A/HRC/14/L.9/Rev.1.

[15] CEDAW/C/EGY/CO/7, para. 23; CEDAW/C/MWI/CO/6, para. 22; CEDAW/PAN/CO/7, para. 7; CEDAW/C/ALB/CO/3, para. 26; CEDAW/C/AUS/CO/7, para. 28; CEDAW/C/FIJ/CO/4, para. 22; CEDAW/C/USR/CO/7, para. 22; CEDAW/C/CO/TUR/6, para. 22; CEDAW/C/MLT/CO/4, para. 22; CEDAW/C/TUN/CO/6, para. 26; CEDAW/C/UGA/CO/7, para. 23.

[16] A/HRC/17/26, para. 17.

[17] For a complete list of thematic reports see appendix 1.

[18] For a complete list of country mission reports see appendix 2.

[19] A/HRC/11/6/Add.5, para. 2.

23. The thematic and country mission reports produced by the Special Rapporteur help provide a framework for addressing distinct forms of gender-based violence by analysing the causes and consequences of violence, and elaborating on the role of both States, non-State actors, and regional and international stakeholders in combating violence in the public and private domains. Thematic reports also help inform policy and shape the advancement of women's human rights standards in international law. For example, the Special Rapporteur's 2010 report on reparations has been used by OHCHR to implement a project on reparations and capacity-building in northern Uganda, as well as a joint project with the United Nations Joint Human Rights Office, which focuses on remedies and reparations for victims of sexual violence in the Democratic Republic of the Congo.[20]

B. Manifestations of violence against women in the four spheres

24. The section below describes prevalence and illustrations of manifestations of violence against women in each of the four spheres by drawing on findings from the country visits undertaken by the Special Rapporteur between 2009 and 2011 (Kyrgyzstan, Algeria, El Salvador, Zambia, United States of America), as well as findings of previous mandate-holders. As such, it does not purport at providing an exhaustive account of forms of violence against women globally, but rather seeks to highlight examples of how such violence can manifest itself by selecting main themes covered and encountered by the Special Rapporteur.

1. Violence in the family

25. The mandate has identified two main categories of violence against women in the family sphere: domestic violence and harmful and degrading practices that are violent to and/or subordinate women, whether justified on the basis of religious, customary or other societal laws and practices.[21] The mandate has adopted a broad definition of the family that encompasses intimate-partner and interpersonal relationships, including non-cohabitating partners, previous partners and domestic workers.[22]

26. The Special Rapporteur's country visits confirm that domestic violence remains widespread and affects women of all social strata. As reported in the mission report on her visit to the United States of America, approximately 552,000 violent crimes against women by an intimate partner were committed in 2008.[23] In El Salvador, a 2008 survey on family health indicated that 44 per cent of women who had been married or lived with a partner had suffered psychological violence, 24 per cent physical violence and 12 per cent sexual violence.[24] According to a national survey in Algeria, over 30 per cent of women had been regularly subjected to threats of physical or psychological violence and 10.9 per cent subjected to forced sexual relationships on more than one occasion by their intimate partner.[25]

[20] See, for example, www.ohchr.org/Documents/Countries/ZR/DRC_Reparations_Report_en.pdf.
[21] See A/HRC/11/6/Add.5, para. 30.
[22] Ibid., para. 31.
[23] See A/HRC/17/26/Add.5, para. 8.
[24] See A/HRC/17/26/Add.2, para. 18.
[25] See A/HRC/17/26/Add.3, para. 14.

27. Country visits indicate that certain groups of women are at particular risk of violence.[26] In the United States, the Special Rapporteur noted that women of African-American descent experience intimate partner violence at rates 35 per cent higher than white women.[27] Further demonstrating the nexus between poverty, exclusion and violence, the country visit revealed that prevalence of domestic violence and sexual assault against Native-American women exceeded that of any other population group in the country.[28] The Special Rapporteur also found that poor women and those with little education, widows or separated women are particularly vulnerable as they lack family and community support. In Algeria and Kyrgyzstan, women between the ages of 25 and 44, and women with two or more children reportedly suffered high levels of domestic violence.[29]

28. Domestic violence continues to be perceived as both socially acceptable and legitimate. During her visit to Kyrgyzstan, the Special Rapporteur found that 38 per cent of women between 15 and 49 years of age believed that a husband had the right to beat his wife in various situations.[30] Domestic violence is also an extremely underreported crime. Throughout country visits, victims put forward similar reasons why they hesitate to contact the authorities: fear of retaliation, family or community pressure not to reveal domestic problems, poor awareness of rights, lack of support services, economic dependency, and perceptions that the police will not respond adequately.[31]

29. Prosecution of domestic and other forms of family violence remains low. El Salvador saw a decline from 4,890 (2003) to 1,240 (2007) in the number of judicial proceedings in intra-family violence cases initiated in family courts.[32] The Special Rapporteur recurrently hears accounts of police officers encouraging informal resolutions and reconciliation between the parties rather than arresting the perpetrators. In Zambia, women preferred conciliation primarily due to family pressure and economic dependency on the abuser.[33] Women facing multiple forms of discrimination, such as immigrant and indigenous women or women belonging to a minority, may be particularly reluctant to reach out to the authorities, who they may perceive as oppressive rather than protective. The Special Rapporteur received reports of the arrest of women of colour and of minority women following domestic violence incidents during her visit to the United States of America.[34]

30. Closely tied to domestic violence, practices that are harmful and degrading undermine the rights and status of women and girls and continue without systematic monitoring or punishment, despite the increasing existence of legal prohibitions.[35] In some countries, early and forced marriage, polygamy and unregistered marriages continue to be of concern. The mandate considers these practices "aggravated factors" that increase vulnerability of women to violence.[36] In Kyrgyzstan, the

[26] See A/HRC/14/22/Add.2, paras. 25 and 28.
[27] See A/HRC/17/26/Add.5, para. 52.
[28] Ibid., para. 62.
[29] See A/HRC/17/26/Add.3, para. 15, and A/HRC/14/22, para. 28.
[30] See A/HRC/14/22/Add.2, para. 27.
[31] See A/HRC/17/26/Add.2, para. 21, and A/HRC/17/26/Add.5, para. 13
[32] See A/HRC/17/26/Add.2, para. 20.
[33] See A/HRC/17/26/Add.4, para. 24.
[34] See A/HRC/17/26/Add.5.
[35] See A/HRC/14/22/Add.2, para. 47.
[36] See A/HRC/14/22/Add.2, para. 45.

Special Rapporteur found correlation between early marriages (12.2 per cent of women) and unregistered marriages, on the one hand, and rising unemployment and feminization of poverty and the resurfacing of patriarchal traditions and religious conservatism, on the other. Early marriage contributes to high maternal mortality rates due to prolonged labour and other complications.[37] Similarly, women living in unregistered marriages in Algeria experienced heightened vulnerability to violence and abuse and were reported to have difficulties in ending abusive relationships due to lack of support, alternative housing and legal protection.[38] Despite legal restrictions in regard to polygamy, the Special Rapporteur heard accounts from women who were subjected to violence or threats of violence by husbands who wished to obtain consent to a polygamous marriage.[39]

31. Many women are subjected to violence by their husbands, but also by their husbands' families. For examples, in countries where "bride price/dowry" is still practised, spouses and in-law family members believe they have purchased the bride and are therefore entitled to subject their "property" to violence and other forms of ill-treatment.[40]

32. Honour-related violence and killings against women intersect with discrimination and inequalities within both the family and community spheres. Statistics from the United Nations Population Fund (UNFPA) suggest that approximately 5,000 women are murdered each year by family members in honour-related violence.[41] Since the establishment of the mandate, violence and murder of women in the name of honour have been reported on in the course of visits to Algeria,[42] Afghanistan,[43] the Islamic Republic of Iran,[44] the Netherlands,[45] the Occupied Palestinian Territory,[46] Pakistan,[47] Sweden,[48] and Turkey.[49] As described by the Secretary-General in his 2006 in-depth study on all forms of violence against women, crimes committed in the name of honour often have a collective dimension, with the family as a whole considered to be injured by a woman's actual or perceived behaviour. They are also public in character and influence the conduct of other women.[50] This collective element makes it extremely difficult to separate the victim from actual or potential perpetrators unless she is willing to break all family relations and start a life outside her social frame of reference.[51]

[37] See A/HRC/17/26/Add.4, para. 23.
[38] See A/HRC/17/26/Add.3, para. 15.
[39] Ibid., para. 56.
[40] See A/HRC/17/26/Add.4, para. 22.
[41] See A/61/122/Add.1, para. 124, and http://inthenews.unfpa.org/?p=3516.
[42] See A/HRC/7/6/Add.2 (2008), para. 37.
[43] See E/CN.4/2006/61/Add.5, para. 30.
[44] Ibid., Add.3, para. 35.
[45] See A/HRC/4/34/Add.4, para. 18.
[46] See E/CN.4/2005/72/Add.4, paras. 56-58.
[47] See E/CN.4/2000/68/Add.4, para. 46.
[48] See A/HRC/4/34/Add.3, para. 34.
[49] See A/HRC/4/34/Add.2, paras. 30-33.
[50] See A/61/122/Add.1, para. 84.
[51] See A/HRC/4/34/Add.3, para. 36.

2. Violence in the community

33. The mandate has identified rape/sexual assault, sexual harassment, violence within institutions, trafficking, forced prostitution, violence against women migrant workers, and pornography as forms of violence against women occurring in the community.[52] Stalking, violence against lesbians, bisexuals and transgender persons, bride-kidnapping,[53] femicide (including killings in connection to witchcraft[54] and dowry)[55] are other manifestations of violence against women in this sphere.

34. Sexual violence is a universal and widespread manifestation of gender-based violence that is rooted in a culture of discrimination that legitimizes the appropriation and control of women's bodies by men.[56] In El Salvador, the incidence of sexual violence increased from 3,368 cases in 2007 to 4,120 cases in 2008.[57] Rape and sexual assault were also noted as prevalent forms of violence against women in the United States, where an estimated 500 women were raped every day in 2008.[58] One in 10 women in Zambia had experienced sexual abuse.[59] Often, public awareness of sexual violence as a crime is not necessarily a given. In Kyrgyzstan, where statistics disclosed an increase of cases of sexual violence against women,[60] awareness was very low: 35 per cent of urban women and 25 per cent of rural women indicated that they did not believe sexual violence constituted a crime.[61]

35. Sexual harassment at school and at the workplace is acknowledged as a pervasive manifestation of violence.[62] In El Salvador, the Special Rapporteur heard testimonies of the working conditions of young women working in the *maquila* plants, where they were subjected to verbal and physical abuse by supervisors, sexual harassment, and mandatory pregnancy tests. Sexual harassment in educational and training institutions in Algeria was pervasive and underreported at the time of the visit of the Special Rapporteur, despite commendable steps by the authorities to criminalize sexual harassment based on abuse of authority.[63] The visit to the United States revealed the particular vulnerability of undocumented immigrant women to violence, including sexual harassment and abuse, in the workplace.[64] Sexual and physical violence against girls in educational establishments perpetrated by male school staff and school boys remains problematic, as reported during the visit of the Special Rapporteur in Zambia.[65] Long distances from home to school also increased risk of harassment, with girls reportedly having sexual relationships with minibus and taxi drivers as a way of coping with transportation costs.

36. The Special Rapporteur is concerned at widespread discrimination and violence suffered by women as a result of their sexual orientation and gender

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[52] See A/HRC/11/6/Add.5, para. 12.
[53] See A/HRC/14/22/Add.2, para. 29.
[54] See A/HRC/11/12/2, para. 43.
[55] See A/61/122/Add.1, para. 123.
[56] See A/HRC/14/22/Add.1, para. 17.
[57] See A/HRC/17/26/Add.2, para. 22.
[58] See A/HRC/17/26/Add.5, para. 11.
[59] See A/HRC/17/26/Add.4, para. 17.
[60] See A/HRC/14/22/Add.2, para. 42.
[61] Ibid., para. 43.
[62] See A/HRC/17/26/Add.2, para. 23.
[63] See A/HRC/17/26/Add.3, paras. 18, 19.
[64] See A/ HRC/17/26/Add.5, para. 57.
[65] See A/HRC/17/26/Add.4, para. 34.

identity.[66] The visit to Kyrgyzstan indicated a high level of societal homophobia, discrimination and violence against lesbian, bisexual and transgender people. Interlocutors shared accounts of incidents of such violence, including brutal gang rapes, "curative" rapes and family violence owing to their sexual identity and gender identity.[67] One study indicated that 23 per cent of lesbian and bisexual women have had forced sexual contacts and 56 per cent have had their families try to force them to change their sexual identity or orientation. A similar pattern was found during the visit to El Salvador, where murders had increased towards homosexuals, bisexuals, transgender and intersex communities from 4 in 2003 to at least 12 in 2009. Accounts of widespread discrimination and violence, including gang rapes and family violence, were shared with the Special Rapporteur.[68]

37. Femicide refers to violent killing/murder of women because they are women and occurs in many contexts, cutting across the four spheres.[69] It includes murder in the context of intimate partner violence, sexual murder, killings in the name of honour,[69] female infanticide, dowry deaths, and killing of prostitutes, and the killing of women accused of witchcraft, as well as certain deaths due to suicide and unidentifiable maternal deaths. Femicide is often linked to domestic violence, which, at its most severe, leads to death. Research on femicide from Australia, Canada, Israel, South Africa and the United States indicates that 40 to 70 per cent of female murder victims were killed by their husbands or boyfriends.[70] The particular vulnerability to violence of women experiencing multiple and intersecting forms of discrimination is further reflected in the findings of a 2004 study in New York City, according to which 51 per cent of intimate partner homicide victims were foreign-born, while 45 per cent were born in the United States.[71] During the examination of Canada by the Committee on the Elimination of Discrimination against Women in 2008, concern was raised about the hundreds of cases of missing or murdered aboriginal women that had occurred during the past two decades that had neither been fully investigated nor attracted priority attention, with perpetrators remaining unpunished.[72]

38. The follow-up visit by the Special Rapporteur to El Salvador in 2010 revealed an alarming increase in extremely violent murders of women and girls in the country.[73] The pattern of these murders was similar to femicides reported on by the former Special Rapporteur during visits to El Salvador, Guatemala and Mexico: victims aged 10 to 29 are kidnapped and found murdered in parks or wasteland, often carrying signs of sexual abuse, sometimes mutilation, torture and decapitation. Extreme socio-economic inequalities, a *machista* culture and high criminality levels are underlying factors that sustain violence against women and discrimination in these societies. As referred to in the report of the Special Rapporteur on her visit to the United States, the murder of women, as well as rape and battering, can also be connected to stalking, which tends to target women at higher rates than men.[74]

[66] See A/HRC/14/22/Add.1, para. 23.
[67] See A/HRC/14/22/Add.2, para. 38.
[68] See A/HRC/17/26/Add.2, para. 28.
[69] See A/61/122/Add.1, para. 84.
[70] See A/61/122/Add.1, para. 115; see also A/HRC/17/26/Add.5, para. 9.
[71] See A/HRC/17/26/Add.5, para. 56.
[72] See CEDAW/C/CAN/CO/7, para. 31.
[73] See A/HRC/17/26/Add.2, para. 25.
[74] See A/HRC/17/26/Add.5, para. 12.

3. Violence perpetrated or condoned by the State

39. Violence perpetrated or condoned by the State may include gender-based violence during conflict, custodial violence, violence against refugees and internally displaced persons as well as against women from indigenous and minority groups.[74]

40. Conflict and post-conflict situations often exacerbate an existing environment of discrimination, subordination, violence against women and men's control over their sexuality. Findings of "unimaginable brutality" in the first mandate-holder's report on violence against women during times of armed conflict continue to hold true.[75] Military environments in general, characterized by a hierarchical and command-driven culture, expose women to heightened risks of violence and abuse. As reported following the visit of the Special Rapporteur to the United States, sexual assault and harassment of women in the military has been acknowledged as a pervasive form of violence against women.[76] While most cases of sexual assault in the military go unreported, statistics suggest that women constitute the vast majority of those who report cases. Reflective of a similar tendency of solving domestic violence cases through negotiation and reconciliation, the overwhelming majority of sexual assault cases in the United States military are disposed of through non-judicial punishment: only 14 to 18 per cent of cases are prosecuted.[77]

41. As indicated by the former Special Rapporteur on torture, custodial violence against women very often includes rape and other forms of sexual violence such as threats of rape, touching, "virginity testing", being stripped naked, invasive body searches, insults and humiliations of a sexual nature.[78] The Special Rapporteur wishes to draw attention to the fact that 15 out of 38 communications sent to Governments in 2010 concerned cases in which authorities allegedly tortured or subjected women to cruel, inhuman or degrading treatment or punishment.[79] In Zambia, women in detention facilities were allegedly subjected to abuse, violence and humiliating or degrading punishment in order to extract confessions. Women were also offered release in exchange for sex.[80] According to a 2008-2009 report on sexual victimization in prisons and jails in the United States, 4.7 per cent of women in prison had experienced sexual assault by an inmate and 2.1 per cent had experienced sexual misconduct by a staff member. During her visit, interviews with inmates indicated that staff used their positions of power to coerce sexual activity in return for access to phone calls, visits, or basic supplies such as food, shampoo, or soap.[81]

42. In Kyrgyzstan, women faced highest risk of ill treatment immediately after arrest and during the investigation period when investigating authorities are seeking a confession. Organizations and several women victims provided accounts of extortion and bribery while in police custody, including being chained to a radiator, having a gun held to their head, beatings and burns.[82] Many women in custodial facilities often face inadequate access to medical treatment and care. Female

[75] See E/CN.4/2001/73.
[76] See A/HRC/17/26/Add.5, para. 22.
[77] Ibid., para. 29.
[78] See CAT/C/MEX/CO/4; CAT/C/GUY/CO/1; CAT/C/TGO/CO/1; CAT/C/BDI/CO/1.
[79] See A/HRC/14/22/Add.1, para. 16.
[80] See A/HRC/17/26/Add.4, para. 33.
[81] See A/HRC/17/26/Add.5, para. 34.
[82] See A/HRC/14/22/Add.2, para. 39.

detainees in Zambia, whether in police custody or in prisons, received little medical attention for prenatal and post-natal care and treatment, HIV/AIDS and tuberculosis testing, and little or no nutrition support.[83]

4. Violence in the transnational arena

43. The risks and heightened vulnerability of violence against women in the transnational arena were highlighted by the former Special Rapporteur who referred to this fourth sphere as a "continuum of life experience across conventional state boundaries".[84] The situation of women victims of trafficking and other forms of contemporary forms of slavery, refugee women and women migrant workers, especially irregular migrant workers, as well as the exploitation of women by actors operating in the transnational sphere such as peacekeepers, are examined here.

44. Defilement, rape, early marriages and survival sex continue to be major problems affecting women asylum-seekers and refugees, both in camps as well as women residing in urban areas.[85] During conflicts, women are often trafficked across borders to provide sexual services to combatants in armed conflict. Armed conflict increases the risk of women and girls being abducted and forced into sexual slavery and/or forced prostitution. Although most conflicts are now internal, women and girls may be transported across international borders to camps of armed groups located in the territory of a neighbouring State. Abuses against women and girls have also been committed by international personnel deployed in United Nations peace operations.[86]

45. The Special Rapporteur's visits to El Salvador, Kyrgyzstan and Zambia — all three source, transit and destination countries for human trafficking — indicated strong commonalities with regard to trafficking of women and children. In Kyrgyzstan, trafficking of women and children became increasingly common during the country's transition period and continues to be a problem.[87] While there are no reliable statistical data with respect to the prevalence of trafficking, a Government report noted that 98 per cent of trafficking victims are women and girls between 15 and 30 years of age. Offers of false employment in urban areas lure young women and girls from rural areas to move to cities, or abroad, where they are forced into sexual exploitation. One young woman interviewed during the visit, who had come to Bishkek to seek employment, was lured to a house in the outskirts of the city where she was locked up for months and forced to have sex with clients. Due to fear of retaliation, she had not reported the case to the police and was even afraid to walk the streets. Similarly, in El Salvador the Special Rapporteur found that the majority of victims of trafficking were women and girls transferred from rural to urban areas in the country.[88] Insufficient measures to ensure victim and witness protection, lack of support services and ineffective responses by law enforcement officials contributed to underreporting of the phenomenon.

46. Irregular women migrants, women asylum seekers and refugees are particularly vulnerable to violence in the transnational arena. During the country

[83] See A/HRC/17/26/Add.4, para. 31.
[84] See E/CN.4/2004/66, para. 42.
[85] See A/HRC/17/26/Add.4, para. 29.
[86] See A/59/710.
[87] See A/HRC/14/22/Add.2, para. 33.
[88] See A/HRC/17/26/Add.2, para. 36.

mission to Zambia, the Special Rapporteur was informed that female migrants, especially those engaging in sex work, are often subjected to sexual abuse and at risk of contracting HIV/AIDS due to their inability to negotiate safe sex.[89] Also, their irregular status makes them reluctant to seek health care. Similarly, immigrant women in the United States of America often suffer higher rates of battering as they have less access to legal, social and support services.[90] Testimonies from undocumented immigrant women living with a United States partner reveal hesitation to seek assistance from authorities when facing abuse due to fear of deportation. It was also indicated that abusers may not initiate the process to acquire permanent residence status for their foreign partner or wife as a way to maintain their power and control over these women.[91]

C. Due diligence obligation of States under international human rights law: evolving practices, jurisprudence and remaining challenges

47. The due diligence standard, within international human rights law, has increasingly become the parameter that measures the level of State compliance with its obligations to prevent and respond to acts of violence against women.[92] The 1993 Declaration on the Elimination of Violence against Women urges States to exercise due diligence to "prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons".[93]

48. The Declaration establishes that States should "develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms".[93]

49. States' efforts to comply with their due diligence obligation should not only focus on legislative reform, access to justice and the provision of services for victims, but must also address issues of prevention, especially in terms of attacking the structural causes that lead to violence against women. Through the implementation of existing human rights standards, States should ensure that the root causes and consequences of violence against women are tackled at all levels of society, starting within the family and up to the transnational arena. In doing so, States should consider the multiple forms of violence suffered by women and the different types of discrimination they encounter, in order to adopt multifaceted strategies to effectively prevent and combat this violence.[94]

50. As discussed above, the due diligence responsibility comprises the obligation of States to: (a) prevent acts of violence against women; (b) investigate and punish all acts of violence against women; (c) protect women against acts of violence, and

[89] See A/HRC/17/26/Add.4, para. 28.
[90] See A/HRC/17/26/Add.5, para. 58.
[91] See A/HRC/17/26/Add.5, para. 60.
[92] See E/CN.4/2006/61, para. 29.
[93] Resolution 48/104, art. 4 (c).
[94] See E/CN.4/2006/61, para. 16.

(d) provide remedy and reparation to victims of violence against women. This section examines how States have endeavoured to comply with these obligations.

1. Prevention

51. The 2006 study of the Secretary-General highlights some positive strategies in terms of primary prevention, i.e., preventing violence from occurring in the first place. These include (a) advocacy and campaigns; (b) education and capacity-building; (c) community mobilization; (d) working with men; (e) using the news media and information technology; and (f) promoting public safety.[95]

52. This mandate has also stressed that the ratification without reservations to all relevant human rights instruments, their incorporation into the domestic legal, judicial and administrative order, and the adoption of measures for their implementation are prerequisites for State's compliance with the due diligence standard.[96]

53. The most common first step to prevent acts of violence against women, which many States have adopted, is the enactment of legislation. Addressing the issue of laws and practices that discriminate against women directly or that have a differentiated and biased impact on women generally, or on particular groups of women, is an area that needs further attention. These include areas in which legislation continues to directly discriminate against women, such as laws relating to the rights of women in the private sphere (including the right to decide freely on marriage, divorce and sexual and reproductive health) or laws revolving around women's economic rights (including the right to decent work, inheritance, land and other productive resources).[97]

54. A report by UN-Women indicates that in the last 30 years significant progress has been made in legal reform in favour of women's rights throughout the world. Gender equality is currently guaranteed in 139 national constitutions, and States have enacted domestic legislation that, inter alia, outlaw domestic violence, establish equal pay laws, guarantee paid maternity leave, outlaw sexual harassment in the workplace or establish equal property and inheritance rights for women.[97]

55. Some States have strengthened inter-agency cooperation to prevent violence through the adoption of national action plans on violence against women. In some cases, national women's institutes have been established or commissioners/ombudspersons appointed to act as focal points, at times in collaboration with civil society organizations.[98] The effectiveness of these mechanisms can be undermined if they are marginalized in the national agenda or are not provided with sufficient financial or human resources to operate. For example, it is not uncommon for gender focal points within Government agencies to lack decision-making authority or the capacity to influence the agenda of their institutions.[99] The Special Rapporteur has also expressed concern at the absence of effective coordination mechanisms between the police, forensic services, and the prosecutorial system,

[95] See A/61/122/Add.1, paras. 339-354.
[96] See E/CN.4/2006/61, para. 89.
[97] See UN Women, *Progress of the World's Women: In Pursuit of Justice* (2011), p. 24.
[98] See E/CN.4/2006/61, para. 41.
[99] See A/HRC/14/22/Add.2, para. 91.

which remain critical to prevent violence by combating impunity and instilling public trust in the justice system.[100]

56. Other preventative measures include public education campaigns on violence against women, using posters, magazine advertisements, websites and television and radio commercials; the establishment of national days of action on gender violence; the launch of awareness-building activities and campaigns with the participation of high-profile personalities; and the development of training and awareness-raising programmes directed at relevant professional groups, including police, prosecutors, members of the judiciary, doctors, nurses and social workers.[101]

2. Prosecution and punishment

57. The due diligence standard has challenged the traditional codification of international law that limited States' responsibility regarding human rights to the public sphere. It has now become clear that, by failing to respond to violence perpetrated in private spaces including intimate partner violence and/or domestic violence, States may be held responsible for not fulfilling their obligation to protect and punish violence and abuse in a non-discriminatory way.[102]

58. States have responded to their obligation to investigate acts of violence against women mainly through the reinforcement of capacities and powers for police, prosecutors and judges. States have also made amendments to their criminal codes to ensure that violent acts are met with appropriate punishments. Some States have adopted specific legislation that establish new criminal offences and often provide for the creation of specialized investigatory and prosecutorial units. Specific policing practices and procedures in relation to the investigation and prosecution of cases of violence against women have also been developed.[103] With respect to domestic violence, measures such as civil protection orders, mandatory arrest policies and mandatory prosecution policies aim to protect victims from further physical harm and ensure that cases of domestic violence are not dismissed even if a victim is unwilling to be present in a court and testify.[104] Nevertheless, some States still fail to criminalize all manifestations of violence against women, including marital sexual violence and other forms of domestic violence in their national legislation.[105]

59. The establishment of women's police stations can help raise awareness of violence against women and increase reporting levels.[106] These specialized police stations have a leading role in initiating legal proceedings in cases of violence against women and are charged with ensuring the implementation of protective measures, providing immediate assistance to survivors, undertaking inquiries and steering cases through the criminal justice system. The work carried out by these facilities is monitored by civil society organizations that identify potential areas of improvements.[106] Other related measures that the Special Rapporteur has welcomed include the inclusion of female police officers with specific expertise in registering

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[100] See A/HRC/17/26/Add.2, para. 60.
[101] See E/CN.4/2006/61, paras. 44-45.
[102] See E/CN.4/2006/61, para. 61.
[103] Ibid., para. 50.
[104] See E/CN.4/1996/53.
[105] See A/HRC/14/22/Add.2, para. 60.
[106] UN-Women, *Progress of the World's Women: In Pursuit of Justice* (2011), p. 58.

and dealing with gender-based violence.[107] This aims to create a responsive environment to encourage reporting.

60. There are, nevertheless, numerous instances in which States fail in their duty to investigate and punish acts of violence against women appropriately, particularly with regard to violence committed in the private sphere. The pervasiveness of patriarchal attitudes in the law enforcement and justice system, coupled with a lack of resources and insufficient knowledge on existing applicable legislation, leads to inadequate responses to cases of violence against women and the persisting social acceptance of such acts.[108]

61. In *Vertido v. Philippines*, which concerned the sexual assault of a woman and the subsequent acquittal of the perpetrator based on gender-based myths and misconceptions about rape, the Committee on the Elimination of Discrimination against Women found the State party in violation of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee noted the obligations of States parties to the Convention to take appropriate measures to modify or abolish not only existing laws and regulations, but also customs and practices that constitute discrimination against women. In this regard, the Committee stressed that stereotyping affects women's right to a fair and just trial and underlined that the judiciary must take caution not to create inflexible standards of what women or girls should be or what they should have done when confronted with a situation of rape, based merely on preconceived notions of what defines a rape victim or a victim of gender-based violence, in general.[109]

62. The testimonies compiled by the Special Rapporteur from victims of domestic violence who attempted to access the legal system show that, unless violence results in serious physical injuries, the police, prosecutors and judges still tend to minimize offences in the belief that domestic violence is a private matter. As such, they discourage victims from pursuing cases and promote conciliation, thus returning victims to situations of abuse. Cases of domestic violence are often treated as administrative rather than criminal offences, or are classified as misdemeanours, resulting in reduced or inappropriate sentences.[110]

63. Low levels of prosecution of crimes against women reinforce the belief among victims that there is no systematic and guaranteed judicial response to violence against women and that there might be no punishment for their abusers. This results in underreporting, further minimization and invisibility of these crimes, and the reinforcement of the continuum of violence affecting women.[111]

3. Protection

64. States have adopted numerous measures in terms of their due diligence obligation to protect, which consist mainly of the provision of services such as telephone hotlines, health care, counselling centres, legal assistance, shelters, restraining orders and financial aid to victims of violence. Yet, despite the adoption of protective measures, inconsistencies in implementation and failure to exercise

[107] See A/HRC/17/26/Add.3, para. 44.
[108] See A/HRC/17/26/Add.2, para. 59.
[109] See CEDAW/C/46/D/18/2008, para. 8.4.
[110] See A/HRC/17/26/Add.2, para. 59; A/HRC/17/26/Add.3, para. 13.
[111] See E/CN.4/2006/61, para. 92.

due diligence have sometimes resulted in the re-victimization of women who report instances of violence.

65. The major gaps in the enforcement of protective obligations include a lack of adequate enforcement by police and the judiciary of civil remedies and criminal sanctions for violence against women, and an absence or inadequate provision of services such as shelters, which mean that women often have no alternative housing options besides continuing to live with their abusers. In addition, the focus of protection has too frequently been on the provision of short-term emergency assistance rather than on providing victims the means to avoid re-victimization.[112]

66. The lack of sufficient specialized shelters for women and girls victims of violence contributes to their invisibility and silencing. Even when government-run shelters are available, the Special Rapporteur has noted in most of her country missions the crucial role played by non-governmental organizations in managing shelter facilities and offering psychological, medical and legal assistance to women victims of violence. Whether privately funded or receiving governmental grants, these centres are usually insufficient in number, lack human and material resources, and are commonly concentrated in areas that are not accessible to all women. While commending the work of civil society organizations, the Special Rapporteur has noted that the due diligence obligation to protect women from violence rests primarily upon the State and its agents. It is therefore the responsibility of States to ensure accessibility and availability of effective protection and support services to victims of domestic violence.[113] Further, the Special Rapporteur has raised concern at the lack of policy guidelines across health, psychosocial and legal sectors ensuring coordinated, prompt and supportive services to victims.[114]

67. During her visit to the United States, the Special Rapporteur visited the Hennepin County Domestic Abuse Service Center in Minnesota, a "one stop centre" that offers services to women victims of violence. An innovative feature of this centre is that it hosts in the same building several city, county and advocacy agencies that help victims during the entire judicial process. Advocates at the centre not only help victims complete the necessary paperwork to request a protection order and explain the civil and criminal court process, but they also accompany victims to court, help them create safety plans for them and their families, help them find shelter or temporary housing, and refer them to other resources and service providers.[115]

68. Another crucial element to avoid the re-victimization of women who have been subjected to violence is the establishment of procedural rules regarding the provision of evidence. These should ensure the protection for victims and witnesses from further harm as a result of filing a complaint.[111]

69. At the international level, the International Criminal Court has established mechanisms to ensure that gender-based crimes committed during armed conflict are dealt with appropriately. The Court's Victims and Witnesses Unit provides protection, support and other appropriate assistance to ensure the personal safety,

[112] Ibid., para. 49.

[113] See A/HRC/17/26/Add.3, para. 73 and A/HRC/17/26/Add.4.

[114] See A/HRC/17/26/Add.4, para. 81.

[115] Taken from interview conducted during mission to the United States.

physical and psychological well-being, dignity and privacy of those testifying.[116] The services of the Victims and Witnesses Unit can be requested and provided at all stages of proceedings, from pre-trial/investigation to post-trial.[117] Furthermore, the Court's Trust Fund for Victims is mandated to assist victims and administer court-ordered reparations.[116] At a national level, the Victims and Witnesses Unit of the Special Court for Sierra Leone has developed a comprehensive package of protection and support and, according to follow-up research, witnesses who had been briefed and supported had a largely positive experience of the Court.[116]

4. Provision of reparations

70. Most human rights and humanitarian law treaties provide for a right to a remedy. In the context of gross and systematic violations of human rights, the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and serious violations of International Humanitarian Law, adopted by the General Assembly in 2005, start with the premise that "the State is responsible for ensuring that victims of human rights violations enjoy an individual right to reparation". Both the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Elimination of Violence against Women place upon the State the duty to provide compensation for all acts of violence. Yet, the implementation of the due diligence obligation to reparations remains grossly underdeveloped in practice, as discussed in the 2010 report of this mandate.[118] The little attention devoted to gender-specific reparations, both at a substantive and procedural level, contrasts with the fact that women are often the target of both sex-specific and other forms of violence.[119]

71. Given the disparate and differentiated impact that violence has on women and on different groups of women, there is a need for specific measures of redress in order to meet their specific needs and priorities. Since violence perpetrated against individual women generally feeds into patterns of pre-existing and often cross-cutting structural subordination and systemic marginalization, measures of redress need to link individual reparation and structural transformation.[120] This implies that reparations should aspire, to the extent possible, to subvert, instead of reinforce, pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience.[120]

72. The principles discussed above were articulated by the Inter-American Court of Human Rights in its 2009 ruling of *Gonzalez et al. ("Cotton Field") v. México*.[121] In this case, concerning the abduction, killing and sexual violence of two children and a young woman by non-State actors in 2003, the Court broadly interpreted the State's obligations to exercise due diligence to prevent, investigate and impose penalties for violence against women. The decision is seminal in that the

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[116] See UN-Women, *Progress of the World's Women: In Pursuit of Justice*, p. 91.

[117] See http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Protection/Victims+and+Witness+Unit.htm.

[118] See A/HRC/14/22.

[119] Ibid., para. 23.

[120] Ibid., para. 24.

[121] This case also refers to the subsequent failure of the State to diligently investigate, prosecute and punish the perpetrators and to treat the relatives of the deceased in a dignified way.

Inter-American Court for the first time embraced the concept of gender-sensitive reparations with a transformative approach. It held that in a situation of structural discrimination, reparations should aim at transforming such situation, thus aspiring not only to restitution but also to correction.[122] It spelled out the criteria to be applied for the assessment of reparations, which include the following: (i) reparations should have a direct connection with the violations found by the Court; (ii) they should repair in a proportional manner pecuniary and non-pecuniary damages; (iii) they cannot be a source of enrichment or impoverishment; (iv) restitution is an aim but without breaching the principle of non-discrimination; (v) reparations should be "oriented to identify and eliminate the structural factors of discrimination"; (vi) they should take into account a gender perspective; and (vii) take into account all the measures alleged by the State to have been taken to repair the harm.[123]

73. Further jurisprudence with regard to reparations includes the case *Opuz v. Turkey*, before the European Court of Human Rights. The case was brought by Ms. Opuz, who, along with her mother, suffered years of violence at the hands of her husband. Despite their complaints, the police and prosecuting authorities did not adequately protect the women and, ultimately, Ms. Opuz's mother was killed by the former husband. The Court decided to award the victim non-pecuniary damages for the anguish and distress suffered on account of the killing of her mother and the authorities' failure to undertake sufficient measures to prevent the domestic violence perpetrated by her husband through deterrent punishment measure.

D. Holistic framework for prevention and protection

74. Prevention must be at the centre of States' and other stakeholders' efforts to eradicate violence against women. Prevention must address the underlying causes of violence by addressing States' fundamental human rights obligations of protecting, respecting and fulfilling all human rights of all women and girls.[124] While strategies need to respond to local specificities, they must all target the tacit social acceptance surrounding violence against women that contributes to its prevalence and be directed towards the empowerment and equal status of women in society.

75. As discussed in the preceding section, a framework of prevention to address violence against women should include, inter alia: (a) legislative measures, including the ratification of international human rights instruments, the harmonization of national legislation, the adoption of specific legislation on violence against women and the allocation of adequate budgetary and human resources to ensure effective implementation of such laws; (b) institutional and policy measures, including the removal of any obstacles to the investigation and prosecution of violence against women, the provision of adequate human, technical and financial resources to provide support and services to victims of gender-based violence, the establishment of coordination mechanisms between authorities and service providers to ensure effective cooperation and information-sharing on matters relating to investigation and prosecution of violence against women; (c) capacity-building activities, including training and awareness-raising, such as gender-sensitive training for all civil servants addressing violence and discrimination against women, awareness-raising

[122] See A/HRC/14/22, para. 77.
[123] See A/HRC/14/22, para. 78.
[124] See A/61/299, paras. 3-10.

campaigns with an aim to eliminating discriminatory attitudes and addressing stereotypical attitudes, and the integration of a gender equality perspective into school textbooks and curricula.

76. It has become increasingly clear that there is a correlation between prevalence rates and effective and responsive accountability measures. The investigation, prosecution, protection and redress measures, offered to women victims of violence, will have a direct effect on the prevalence rates of such violence.[111] The ultimate objective of States' efforts when investigating and punishing acts of violence against women, and when protecting and offering redress to victims of such violence, should be the prevention of revictimization and future acts of violence by addressing structural discrimination and ensuring empowerment of women.

77. Nevertheless, these measures will not bring about substantive results if not implemented within a holistic approach that targets both societal transformation and the empowerment of women. This mandate has stressed that linkages should be made between violence and other systems of oppression prevalent within societies, in order to tackle the structural causes of violence against women. In order for women to be able to progressively realize the full range of their human rights (civil, political, economic, social and cultural rights), States should promote and support their empowerment through education, skills training, legal literacy and access to productive resources. This will enhance women's self-awareness, self-esteem, self-confidence and self-reliance.[125] Existing social and economic power systems and structures, at the institutional and individual levels, reinforce gender inequalities that make women more vulnerable to violence, in particular women living in poverty, migrant women, indigenous women, and young or elderly women.[126] The economic empowerment of women through preventative factors, such as property and land rights for women, adequate housing, economic independence, or secondary education, may serve as a deterrent to such violence.[127] Women that are empowered understand that they are not destined to subordination and violence. They resist internalizing oppression, they develop their capabilities as autonomous beings and they increasingly question and negotiate the terms of their existence in both public and private spheres.[125]

78. In terms of women's empowerment at the community and family level, States should engage in "cultural negotiations" through which the root causes of violence against women may be confronted and the oppressive nature of certain societal practices made evident. This cultural negotiation requires identifying and contesting the legitimacy of those who monopolize the right to speak on behalf of culture and religion.[128] It is not culture or religion per se that sanctions the beating, mutilation or killing of women. Rather, it is those who monopolize the right to speak on behalf of culture or religion. As a consequence, State engagement in women's empowerment and societal transformations is central to challenging and changing hegemonic patriarchal structures and practices.[129]

79. The fulfilment of the human rights of women also requires political will and an adequate allocation of resources, to address existing inequalities and discrimination.

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[125] Ibid., para. 80.
[126] See A/HRC/17/22, para. 39.
[127] Ibid., para. 40.
[128] E/CN.4/2006/61, para. 85.
[129] Ibid., para. 88.

In taking upon these endeavours, States should act without discrimination, and must commit the same efforts and resources to preventing, investigating, punishing and providing remedies for acts of violence against women, as they commit to address other forms of violence. States should act in good faith, and take positive steps and measures to ensure that women's human rights are protected, respected, promoted and fulfilled.[130]

Conclusions and recommendations: adopting a holistic approach to violence against women

80. A holistic approach to understanding discrimination and violence against women requires, among others, (a) treating rights as universal, interdependent and indivisible; (b) situating violence on a continuum that spans interpersonal and structural violence; (c) accounting for both individual and structural discrimination, including structural and institutional inequalities, and (d) analysing social and/or economic hierarchies among women, and between women and men, i.e., both intra-gender and inter-gender.

81. Human rights are universal. Everyone is entitled to have their human rights respected, protected and fulfilled regardless of their geographic location or social position, and this includes the right of women to be free from violence. Yet, understanding rights as universal should not preclude States from taking into consideration the specificities of violence against women and engaging at a local level to adequately recognize the diverse experiences of oppression faced by women.[131] The programmatic responses to violence against women cannot be considered in isolation from the context of individuals, households, communities or States.[132]

82. Human rights are also interdependent and indivisible. States should move beyond the erroneous focus that privileges civil and political rights and recognize how the denegation of social, economic, and cultural rights restricts women from meaningfully exercising civil and political life.[133] In pursuing a holistic approach to understanding discrimination and violence against women, it is imperative to include an analysis of the right to an adequate standard of living and also a focus on, inter alia, bodily integrity rights, education, civil and political engagement and individual self-determination. These fundamentals directly affect a woman's ability to equitably and holistically participate in public and private spaces.[134]

83. A holistic approach to dealing with violence requires an understanding that such violence is situated along a continuum both in terms of time and space, and the varied forms and manifestations reflect this. Although some categorization might be useful in terms of the provision of services for victims, such as clinical, psychosocial or legal, a holistic perspective sees all forms of abuse qualitatively impacting the economic, social, cultural and political well-being of women, of their communities and of the State. States must acknowledge that violence against women is not the root problem, but that violence occurs because other forms of discrimination are allowed to flourish. By situating violence along a continuum, States may appropriately contextualize violence and recognize that the deprivation

[130] See E/CN.4/2006/61, paras. 35-36.
[131] See A/HRC/17/26, paras. 59-60.
[132] Ibid., para. 101.
[133] Ibid., para. 60.
[134] Ibid., para. 103.

of water, food, and other human rights can be just as egregious and debilitating as family violence. Although these forms of violence are by no means the same, they can be viewed as parallel and similar when considering their interrelationship.[135]

84. The holistic approach also requires States to recognize the existence of structural and institutional inequalities related to discrimination. Whether based on race, ethnicity, national origin, ability, socio-economic class, sexual orientation, gender identity, religion, culture, tradition or other realities, discrimination often intensifies acts of violence against women. The acknowledgement of structural aspects and factors of discrimination is necessary for achieving non-discrimination and equality.[136] Efforts to end all forms of violence against women must consider not only how individual lives are affected by the immediate impact of abuse, but how structures of discrimination and inequality perpetuate and exacerbate a victim's experience.[137] Interpersonal, institutional and structural forms of violence perpetuate gender inequities, but also racial hierarchies, religious orthodoxies, ethnic group exclusionary practices, and resource allocation that benefit some groups of women at the expense of others. Interventions that seek to only ameliorate the abuse, and that do not factor in women's realities, are not challenging the fundamental gender inequalities and discrimination that contribute to the abuse in the first place.

85. Adopting a holistic model with regards to gender-based violence requires an understanding of the ways in which inter- and intra-gender differences exist and the ways in which institutional and structural inequalities exacerbate violence through multiple and intersecting forms of discrimination.[138] In meeting their international legal obligations, States must bear in mind that discrimination affects women in different ways depending on how they are positioned within the social, economic and cultural hierarchies that prohibit or further compromise certain women's ability to enjoy universal human rights. This approach also reveals critical aspects of intra-gender discrimination and inequality, which up until now have been invisible in efforts that treat all women homogenously in the responses to violence.[131]

86. A one-size-fits-all programmatic approach is insufficient for combating gender-based violence. Violence results from a complex interplay of individual, family, community and social factors — and, even though all women are at risk for violence in every society in the world, not all women are equally vulnerable to acts and structures of violence. A holistic approach for the elimination of all forms of violence against all women requires addressing systematic discrimination and marginalization through the adoption of measures that address inequality and discrimination among women, and between women and men. The United Nations human rights treaties, declarations and mechanisms provide the institutional framework within which Governments, non-State actors, and local activists can promote a holistic response to identifying, preventing, and ultimately ending, all forms of violence against women. The fight for the human rights of women remains a collective endeavour in which we should jointly take action to ensure their full enjoyment by every woman and girl worldwide.

[135] Ibid., paras. 64-66.
[136] Ibid., para. 67.
[137] Ibid., para. 102.
[138] Ibid., para. 70.

Appendix I

Thematic annual reports by the Special Rapporteur on violence against women, its causes and consequences, as at 30 July 2011

Theme and year	*Symbol number of report*
Multiple and intersecting forms of discrimination and violence against women (2011)	A/HRC/17/26
Reparations to women who have been subjected to violence (2010)	A/HRC/14/22
Political economy of women's human rights (2009)	A/HRC/11/6
Indicators on violence against women and State response (2008)	A/HRC/7/6
Intersections between culture and violence against women (2007)	A/HRC/4/34
The due diligence standard as a tool for elimination of violence against women (2006)	E/CN.4/2006/61
Intersections of violence against women and HIV/AIDS (2005)	E/CN.4/2005/72
Towards an effective implementation of international norms to end violence against women (2004)	E/CN.4/2004/66
International, regional and national developments in the area of violence against women, 1994-2003 (2003)	E/CN.4/2003/75/Add.1
Cultural practices in the family that are violent towards women (2002)	E/CN.4/2002/83
Violence against women perpetrated or condoned by the State during times of armed conflict (2001)	E/CN.4/2001/73
Trafficking in women, women's migration and violence against women (2000)	E/CN.4/2000/68
Follow-up report on violence against women in the family (1999)	E/CN.4/1999/68
Violence perpetrated or condoned by the State (1998)	E/CN.4/1998/54
Violence against women in the community (1997)	E/CN.4/1997/47
Violence against women in the family (1996)	E/CN.4/1996/53
Preliminary report (1995)	E/CN.4/1995/42

Appendix II

Country mission reports by the Special Rapporteur on violence against women, its causes and consequences, as at 30 July 2011

Country	*Symbol number of report*
United States of America (January-February 2011)	A/HRC/17/26/Add.5
Zambia (December 2010)	A/HRC/17/26/Add.4
Algeria (November 2010)	A/HRC/17/26/Add.3
El Salvador (March 2010)	A/HRC/17/26/Add.2
Kyrgyzstan (November 2009)	A/HRC/14/22/Add.2
Moldova (July 2008)	A/HRC/11/6/Add.4
Tajikistan (May 2008)	A/HRC/11/6/Add.2
Saudi Arabia (February 2008)	A/HRC/11/6/Add.3
Democratic Republic of the Congo (July 2007)	A/HRC/7/6/Add.4
Ghana (July 2007)	A/HRC/7/6/Add.3
Algeria (January 2007)	A/HRC/7/6/Add.2
Netherlands (July 2006)	A/HRC/4/34/Add.4
Sweden (June 2006)	A/HRC/4/34/Add.3
Turkey (May 2006)	A/HRC/4/34/Add.2
Afghanistan (July 2005)	E/CN.4/2006/61/Add.5; A/58/421
Mexico (February 2005)	E/CN.4/2006/61/Add.4
Russian Federation (December 2004)	E/CN.4/2006/61/Add.2
Islamic Republic of Iran (February 2005)	E/CN.4/2006/61/Add.3
Darfur region of the Sudan (September 2004)	E/CN.4/2005/72/Add.5
Occupied Palestinian Territory (June 2004)	E/CN.4/2005/72/Add.4
Guatemala (February 2004)	E/CN.4/2005/72/Add.3
El Salvador (February 2004)	E/CN.4/2005/72/Add.2
Colombia (November 2001)	E/CN.4/2002/83/Add.3
Sierra Leone (August 2001)	E/CN.4/2002/83/Add.2
Bangladesh, Nepal and India (November 2000)	E/CN.4/2001/73/Add.2

Country	*Symbol number of report*
East Timor (November 1999)	A/54/660
Pakistan and Afghanistan (September 1999)	E/CN.4/2000/68/Add.4
Haiti (June 1999)	E/CN.4/2000/68/Add.3
Cuba (June 1999)	E/CN.4/2000/68/Add.2
Indonesia and East Timor (November 1998)	E/CN.4/1999/68/Add.3
United States of America (June 1998)	E/CN.4/1999/68/Add.2
Liechtenstein (April 1998)	E/CN.4/1999/68
Rwanda (September 1997)	E/CN.4/1998/54/Add.1
South Africa (October 1996)	E.CN.4/1997/47/Add.3
Brazil (July 1996)	E.CN.4/1997/47/Add.2
Poland (May 1996)	E.CN.4/1997/47/Add.1
Democratic People's Republic of Korea, Republic of Korea and Japan (July 1995	E/CN.4/1996/53/Add.1